

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Peter Lucianno Curbello,

Civil No. 05-2469 (PAM/RLE)

Petitioner,

v.

ORDER

Marty C. Anderson, Warden; the
United States Department of Justice;
and the Bureau of Prisons, FMC-
Rochester,

Respondents.

This matter is before the Court on Petitioner's Objections to the Report and Recommendation ("R&R") of Chief United States Magistrate Judge Raymond L. Erickson, dated July 28, 2006. The R&R recommended dismissing as moot the Petition for Writ of Habeas Corpus. For the reasons set forth below, the Court adopts the R&R and dismisses as moot the Petition.

On December 21, 2005, Petitioner completed service of his federal sentence and was transferred to the custody of the State of Minnesota. On April 13, 2006, Petitioner was extradited to California, where he was detained at the El Dorado County Detention Center. Petitioner is no longer incarcerated at a federal prison and is not under Respondent Anderson's care or custody. Thus, his Petition is moot. See Copley v. Keohane, 150 F.3d 827, 829 (8th Cir. 1998); Elwood v. Sanders, 152 Fed. Appx. 558, 558 (8th Cir. 2005).

As the Magistrate Judge correctly found, this case is not an exception to the mootness doctrine because the situation is not capable of repetition yet evading review. Petitioner has

demonstrated neither exceptional circumstances nor a likelihood of being returned to Respondent Anderson's custody. See Copley, 150 F.3d at 830. Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Petition for Writ of Habeas Corpus (Docket No. 1) is **DENIED AS MOOT**;
2. The R&R (Docket No. 19) is **ADOPTED**; and
3. Petitioner's Objections to the R&R (Docket No. 20) are **OVERRULED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 16, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge